IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

WA.No. 2439 of 2007()
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AGAINST THE JUDGEMENT/ORDER IN WPC.13361/2006 Dated 03/07/2007

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APPELLANT: PETITIONER:
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K. RAMADASAN,
HELPER/WATCHMAN, OFFICE OF THE ASSISTANT,
EXECUTIVE ENGINEER, BOAT BUILDING YARD,
SAKTHIKULANGARA.

BY ADV. SRI.P.RAVINDRAN

RESPONDENTS: RESPONDENTS:
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1. STATE OF KERALA,
REP. BY ITS SECRETARY, DEPARTMENT OF FISHERIES AND PORTS, GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM.

2. THE DIRECTOR OF FISHERIES,
KERALA FISHERIES DEPARTMENT, THIRUVANANTHAPURAM.

BY

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 17/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K.S.RADHAKRISHNAN & A.K. BASHEER, JJ**

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W.A. 2439/2007

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Dated this the 17th day of October, 2007

**JUDGMENT**

Radhakrishnan, J

Writ petition was preferred by the appellant herein challenging Ext.P9 order of the Government and for a declaration that the appellant was entitled to the benefit of Rule 60(b) of Kerala Service Rules Part-I. It was rejected by the Government stating that as per Rule 60(b), the last grade employees, whose date of entry in service, ie, prior to 1.4.1970, shall retire on the age of 60 years. It is also stated that the petitioner was only a casual labourer worked in the Fisheries Corporation at daily rate wages until the Fisheries Corporation was abolished as per G.O. (MS).No.105/77/DD dated 20.8.1977. He was absorbed into Fisheries Department only on 20.8.1977 on humanitarian ground. Hence he did not get the protection under Rule 60(b). Ext.P1 Office Order would show that the petitioner is a regular employee under the category “unskilled labour” with

effect from 1.4.1969 and the counsel submits that since he was a regular employee from 1.4.1969 he is entitled to the benefit of Rule 60(b) of KSR, Part-I. Learned counsel brought to our notice Ext.P8 judgment of this Court and we have gone through Rule 60(b) of Kerala Service Rules, Part-I also which states as follows:-

> Officers in the Last Grade Service on 7.4.1970 will retire on the afternoon of the last day of the month in which they attain the age of 60 years provided that this benefit will be available to them only as long as they continue to be in the Last Grade Service as defined in Rule 12(16-A).

Since the same has not been included in the last Grade service, petitioner would not get the benefit of Rule 60(b) of K.S.R. Part-I. Ext.P8 judgment of the learned Single Judge only stated that their claim should be considered afresh, since the post has not been included in the Last Grade Service. We are of the view that the learned Single has rightly rejected the writ

petition. There is no merit in this appeal and the same is dismissed.

**K.S.RADHAKRISHNAN**
**Judge**

**A.K. BASHEER**
**Judge**

mrcs